



POLICE DEPARTMENT

July 31, 2023

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In the Matter of the Charges and Specifications :

- against - :

Police Officer Karen Ramirez :

Tax Registry No. 939270 :

Narcotics Borough Bronx :

Case No.

2022-27405

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At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Anne E. Stone
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Penny Bluford-Garrett, Esq.
Department Advocate's Office
One Police Plaza, Room 402
New York, NY 10038

For the Respondent: Roger Blank, Esq.
2201 Baxter Lane, Suite 10295
Bozeman, MT 59718-9998

To:

HONORABLE EDWARD A. CABAN
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Police Officer Karen Ramirez, while assigned to Headquarters Security, on or about November 1, 2022, engaged in conduct prejudicial to the good order and efficiency of the Department in that said officer was discourteous to New York City Police Sergeant Edgar Figueroa when she said, "You're an ass," after he instructed her to keep the lights on in her security booth for security concerns, then told her she needed to go sick when she stated the lights were off because she had a headache.

A.G. 304-06, Page 1, Paragraph 1

PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on June 15, 2023. Respondent, through her counsel, entered a plea of Not Guilty to the subject charge. The Department called Sergeant Edgar Figueroa as their sole witness. Respondent testified on her own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having evaluated all the evidence in this matter I find Respondent Guilty and recommend the forfeiture of ten (10) vacation days.

ANALYSIS

It is undisputed that on November 1, 2022 Respondent and Sergeant Edgar Figueroa were both working during the second platoon at Headquarters Security. Respondent was the meal relief officer and Sergeant Figueroa was the Patrol Supervisor. At approximately 0700 hours, while it was still dark out, Respondent was present in a security booth at the rear of One Police Plaza near the fueling station and the loading dock. The interior lights of the booth were off. Sergeant Figueroa entered the booth and turned on the lights. The parties agree that they spoke, and that Sergeant Figueroa told the Respondent, in sum and substance, to "go sick." The

Sergeant then left the booth. In dispute is whether during their conversation Respondent was discourteous.

At trial, Sergeant Edgar Figueroa testified that he is currently assigned to the Headquarters Security Unit and has been a Sergeant there since 2020¹. On the date in question, Sergeant Figueroa was working a 0600x1444 tour. His duties that day included supervising the officers assigned to the various security checkpoints located in and around One Police Plaza. (Tr. 11) He testified that One Police Plaza is a high-value target, thus requires heightened security. According to Sergeant Figueroa, the rear of One Police Plaza is a particularly vulnerable location because of the loading dock, fueling station, and Mass Arrest Processing Center (MAPC) where prisoners are brought on occasion. (Tr. 12-14) On November 1, 2022, he approached the security booth located in the rear of the building and saw that the interior lights were off. He approached “to see if anybody was in there at all,” entered the booth, and turned on the lights; that is when he saw Officer Ramirez. Sergeant Figueroa instructed Respondent to turn on the lights and leave them on. According to Sergeant Figueroa, she advised him that she had a headache and the lights were “bothering her.” Sergeant Figueroa told her to turn them on “because it looks like nobody is in there.” (Tr. 13)

Sergeant Figueroa stated that when Respondent insisted “I have a headache,” he responded, “Then, I don't know what to tell you. If you don't feel good, then you can go sick.” (Tr. 17) When asked how Respondent reacted to this interaction Sergeant Figueroa asserted, “She said, ‘You're an ass’... And then, I said, ‘Excuse me? What did you just call me?’” Respondent did not respond, and at that point Sergeant Figueroa left the booth while

¹ Sergeant Figueroa was also assigned to Headquarters Security Unit as a Police Officer for approximately 5 years from 2012-2017.

simultaneously calling his lieutenant to inform him of the incident and request that a Command Discipline be issued. (Tr. 18)

On cross-examination, Sergeant Figueroa acknowledged that Respondent filed a lawsuit against him, alleging discrimination, retaliation, and harassment. He also testified that the lawsuit had been served on him prior to the date of this incident. (Tr. 18-19) Sergeant Figueroa admitted that in June 2020, he requested that a Command Discipline be issued to Respondent for yelling at him, but that the allegation was ultimately unsubstantiated. (Tr. 35-37) In addition, Sergeant Figueroa testified that he had been instructed by his lieutenant not to “scratch [Respondent’s memo] book because she EEOs you...” (Tr. 40-41)

Respondent testified on direct examination that on the date in question she was working as the meal relief officer for Headquarters Security. (Tr. 54-55) She has worked in the unit since 2013. Just before 0700 hours, she went to relieve the officer assigned to the security booth in the rear of One Police Plaza. Respondent testified that she turned out the lights in the booth because “when the lights are on and it’s dark outside, it’s a safety issue because you can’t see outside. People could see you inside and you become a target...” (Tr. 56) Respondent stated that she opened the door to the booth and positioned herself by the entrance door so that she could be seen by a person approaching the booth “so they know I’m in there.” (Tr. 57)

At approximately 0700 hours, Sergeant Figueroa walked toward the security booth. Respondent testified that as the sergeant approached the booth she requested to use the restroom and he responded, “No, go sick.” According to Respondent, he then entered the booth, “turns the light on himself and proceeds to go behind me on the right-hand side, to the side behind me inside the booth.” (Tr. 58)² Respondent testified that after their brief conversation, she was

² Respondent testified without providing specific dates or examples that Sergeant Figueroa had a “trend” of telling her to go sick in response requests for days off or lost time. (Tr. 58)

unsure what Sergeant Figueroa was doing in the booth because she continued facing forward and did not look. (Tr. 59, 62) Respondent testified that as he left the booth, the sergeant was mumbling something, and he was on his phone when he walked out. She denied calling Sergeant Figueroa an “ass.” (Tr. 62) On cross-examination Respondent testified that while she did not remember telling Sergeant Figueroa that she had a headache, lights do give her a headache, and she may have had a headache on that date. (Tr. 64-65)

For the reasons set forth below, I find that the Department has met its burden of proving by a preponderance of the evidence that on November 1, 2022, Respondent was discourteous to her supervisor.

First, the video recordings entered into evidence by the Department support the testimony of Sergeant Figueroa. In Dept. Ex. 2, Sergeant Figueroa can be seen approaching the security booth in question, and it is clear from the video that the booth is dark. The sergeant enters the open door of the booth, and approximately two (2) seconds later the light to the booth turns on. Approximately 37 seconds later, Sergeant Figueroa can be seen exiting the booth, and it is clear that he is speaking on a cell phone. (Dept. Ex. 2 at 6:48-7:38) This sequence of events is consistent with his testimony that he left the booth and immediately called his lieutenant to report the comment and seek discipline. Furthermore, the conversation as described by Sergeant Figueroa could take about 30 to 40 seconds, approximately the time the video captures him in the booth. In contrast, Respondent’s explanation that the sergeant was just standing there in silence is not logical. Thirty seconds is a long time to stand in silence without engaging. If the extent of the conversation between the two was a request to use the restroom, it is unlikely that he would have stayed that long. The most reasonable inference, supported by the evidence, is that there was a longer interaction between the parties about the lights, the headache complaint, the

suggestion to “go sick,” all of which culminated in Respondent saying to Sergeant Figueroa, “You’re an ass.”

Second, the video showing that the booth is dark supports Sergeant Figueroa’s testimony that he approached the booth to check if anyone was posted there because it looked deserted. This corroborated testimony makes sense, and as a supervisor was the proper thing to do. This is also evidence that the sergeant’s actions were motivated by security concerns and not retaliation.

Third, the uncontested fact that during the encounter Sergeant Figueroa advised Respondent to “go sick” also supports the Department’s case. Sergeant Figueroa testified that Respondent told him she had a headache from the lights. It is reasonable to infer that a supervisor would advise a subordinate to go home sick if they complained of a headache. It does not make sense if the person simply asked to use the restroom. It is also worth noting that in Dept. Ex. 1, Respondent can be seen entering the security booth, where the lights are on; she props open the door, and a little more than a minute later the lights go off. (Dept. Ex. 1 at 3:30-4:39) Respondent’s admission that the lights do give her a headache, as well as her turning out the lights, supports Sergeant Figueroa’s account that she complained to him about a headache which prompted him to advise her to “go sick.”

In sum, the weight of the credible evidence supports Sergeant Figueroa’s account and a finding that Respondent called him “an ass.”

PENALTY

In order to determine an appropriate penalty this Tribunal, guided by the Department’s Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent’s employment record was also reviewed. (*See* 38 RCNY § 15-07) Information from her personnel

record that was considered in making this penalty recommendation is contained in an attached memorandum. In addition, Respondent, through her attorney, provided two (2) character references, one from her current lieutenant and another from a police officer who worked with her in the Headquarters Security Unit for eight (8) years.

Respondent, who was appointed to the Department on July 11, 2005, has been found Guilty of being discourteous to her supervisor. The Department has recommended a penalty of ten (10) vacation days; I agree with that recommendation in light of the circumstances surrounding the discourtesy.

The Department charged Respondent with conduct prejudicial to the good order and efficiency of the Department, the penalty range for this misconduct includes a mitigated penalty of training through an aggravated penalty of termination. (Disciplinary Guidelines, p. 46) This ten-day penalty is consistent with precedent in which members of service have been found guilty of discourtesy to a supervisor. (*See, e.g. Disciplinary Case No. 2018-19545* [July 9, 2021] [Sixteen-year detective with no disciplinary history forfeited ten (10) vacation days for being discourteous towards a lieutenant. The lieutenant ordered Respondent to complete a subpoena for information regarding a credit card transaction. Respondent yelled at the lieutenant, threw keys at him and used profanity. The Trial Commissioner credited the lieutenant's testimony as to the interaction because it was corroborated by other MOS. Respondent's contentions that there was a "cover up" and that the lieutenant had injured her were deemed incredible.]; *Disciplinary Case No. 2013-10510* [March 26, 2015] [Seven-year police officer with no disciplinary record forfeited ten vacation days for discourteously speaking to a sergeant in a loud tone and not allowing the sergeant to speak. The Trial Commissioner found that the discourteous conduct appeared to be an aberration from the manner in which Respondent normally addressed

supervisors.]; *Disciplinary Case No. 2011-3646* [June 6, 2013] [Sixteen-year police officer with no prior disciplinary record forfeited ten vacation days for discourteously making comments during roll call after the lieutenant conducting roll call repeatedly requested that he remain silent.])

The evidence established that Respondent stated to her supervisor "You're an ass" after he advised her to go sick if she had a headache. The statement is rude on its face, and in the context of a paramilitary organization is clearly improper, discourteous, and prejudicial to the good order and efficiency of the Department. When determining a penalty recommendation, I took into consideration that the discourtesy which occurred in this incident was limited to one sentence, uttered in private, and did not escalate. In addition, Respondent is an 18 year veteran of the Department with no disciplinary history, positive employment history, and character references from other members of service. Accordingly, I recommend that Respondent forfeit ten (10) vacation days.

Respectfully submitted,



Anne E. Stone
Assistant Deputy Commissioner Trials

APPROVED

JUL 30 2023

EDWARD A. CABAN
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: SUMMARY OF EMPLOYMENT RECORD
POLICE OFFICER KAREN RAMIREZ
TAX REGISTRY NO. 939270
DISCIPLINARY CASE NO. 2022-27405

Respondent was appointed to the Department on July 11, 2005. On her three most recent annual performance evaluations, she was rated “Exceptional” for 2019 and twice rated “Exceeds Expectations” for 2018 and 2017. She had been awarded five medals for Excellent Police Duty.

Respondent has no disciplinary history.

For your consideration.

Anne E. Stone
Assistant Deputy Commissioner Trials